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July 23, 2024

VIA ECF

United States District Court
Clarkson S. Fisher Building
402 East State Street
Trenton, New Jersey 08608

Re: *Association of New Jersey Rifle & Pistol Clubs, Inc., et al. v. Platkin, et al.* ("ANJRPC"), No. 3:18-cv-10507; *Cheeseman, et al. v. Platkin, et al.*, No. 1:22-cv-04360; *Ellman, et al. v. Platkin, et al.*, No. 3:22-cv-04397

Dear Judge:

The State writes regarding the recent persuasive decision in *Vermont Federation of Sportsmen's Clubs, et al., v. Birmingham, et al.* (VFSC), No. 2:23-cv-710 (D. Vt. July 18, 2024), ECF 74 (attached). That court denied a preliminary injunction in a challenge to Vermont's large capacity magazine (LCM) restrictions. *Id.* at 87.

The court found that the challenge likely failed both steps of the analysis under *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022). First, the court recognized that a plaintiff must prove the regulated weapons are in common use for self-defense for them to qualify for Second Amendment protection. VFSC, at 14. The court then reviewed the evidence, most importantly the written and oral testimony of expert Dr. Lucy P. Allen (also an expert here, *see* Dkt. 184-1 at Ex. 7). *Id.* at 16-39. The court found Dr. Allen's results persuasive, and found they refuted the notion that these weapons are in common use for self-defense. *Id.* The court added that while the plaintiffs introduced evidence as to the common ownership of guns and LCMs, they failed to carry their burden to show LCMs are actually in common use for self-defense—the key question. *Id.*; *cf.* Dkt. 175-7 at 21-22, 28 (plaintiffs making same argument).

At the second step, the court went on to assess the country's history and tradition of gun regulation. VFSC, at 40. The court relied on the findings of expert Professor



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Robert Spitzer (also an expert here, *see* Dkt. 184-1 at Ex. 4), and denied a Daubert objection to his testimony. *Id.* at 44-64. The court found Vermont’s LCM regulation was implemented in response to a modern problem without an historical analogue (*i.e.*, mass shootings), yet is nonetheless consistent with historical regulatory principles, and is therefore justified by America’s history and tradition of firearm regulation—discussing, *inter alia*, restrictions on Bowie Knives and gunpowder. This court should join the chorus of opinions upholding the constitutionality of restrictions on assault weapons and LCMs. *See* Dkt. 203 at 2-3.

Respectfully submitted,

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By: /s/ Daniel M. Vannella
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Enclosure

cc: All counsel of record (via ECF)